PENSIONS

1974. No. 178

Judicial Pensions (Northern Ireland) (Widows' and Children's Benefits) Regulations 1974

Made . . . . . 17*th July* 1974

Laid before Parliament . . . . 31*st July* 1974

Coming into operation . . . 1*st September* 1974

REGULATIONS, DATED 17TH JULY 1974, MADE BY THE LORD CHANCELLOR UNDER THE ADMINISTRATION OF JUSTICE ACT 1973.

The Lord Chancellor, in exercise of the powers conferred by section 10(8) of and Schedule 3 to the Administration of Justice Act 1973(**a**) and now vested in him by Article 3(1) of and Schedule 2 to the Northern Ireland (Modification of Enactments No. 1) Order 1973(**b**) and with the concurrence of the Minister for the Civil Service, hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Judicial Pensions (Northern Ireland) (Widows' and Children's Benefits) Regulations 1974 and shall come into operation on 1st September 1974.

Interpretation

2.—(1) In these Regulations—

"the Act of 1959" means the County Courts Act (Northern Ireland) 1959(**c**);

"the Act of 1960" means the Resident Magistrates' Pensions Act (Northern Ireland) 1960(**d**);

"the Act of 1973" means the Administration of Justice Act 1973;

"contribution" means a contribution towards the cost of a widow's or children's pension;

"lump sum" means the lump sum payable, under section 121(1) or (2) of the 1959 Act or section 3(1) or (2) of the 1960 Act on the retirement or death of an office-holder;

"office-holder" means a person serving after 17th April 1973 in an office in respect of which a widow's or children's pension may be granted under or by virtue of the Act of 1959 or the Act of 1960;

"periodical payment" means a contribution in the form of a deduction from the office-holder's salary;

"personal pension" means the pension for which an office-holder becomes eligible on retirement (or, if he dies in office, would have become eligible had he retired on the ground of infirmity at the time of his death);

(**a**) 1973. c. 15.
(**b**) S.I. 1973/2163 (1973 III, p. 7541).
(**c**) 1959. c. 25 (N.I.).
(**d**) 1960. c. 2 (N.I.).

"relevant service" means service in an office in respect of which a widow's or children's pension may be granted under or by virtue of the Act of 1959 or the Act of 1960, including service before the passing of these Acts;

"responsible authority" means, in relation to an officer-holder, the person or body responsible for paying his salary;

references to a widow's pension include references to a children's pension;

"15-year office", "20-year office" and "25-year office" mean an office service in which for 15, 20 or 25 years, as the case may be, is a condition of eligibility for an annual pension at the rate of one half of the last annual salary payable in respect of that office;

references to service in a 15-year, a 20-year or a 25-year office include references to successive periods of service in two or more such offices, being periods which are aggregable for the purposes of eligibility for pension.

(2) The Interpretation Act 1889(e) shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

Elections by persons serving at passing of Act of 1973

3.—(1) An office-holder to whom this regulation applies may elect—

(*a*) that subsection (2) of section 10 of the Act of 1973, as adapted by paragraph 1 of Schedule 3 to that Act, shall apply to him as if the whole of his relevant service were service after 17th April 1973; or

(*b*) that subsections (1) to (3) of section 10 of the Act of 1973, as adapted by paragraph 1 of Schedule 3 to that Act, shall not apply to him and that the Act of 1959 or the Act of 1960, as the case may be, shall apply as if the said section 10 had not been passed.

(2) An election under sub-paragraph 1(*a*) or (*b*) above may be made by notice in writing given to the responsible authority not later than 31st December 1974.

4.—(1) An office-holder to whom this regulation applies, who elected under section 13 of the Judicial Pensions Act (Northern Ireland) 1951(f) for his eligibility for pension not to satisfy the conditions for the grant of a widow's pension, may revoke that election by notice in writing to the responsible authority not later than 31st December 1974.

(2) Revocation of an election under paragraph (1) above shall have the same effect in relation to the treatment of the office-holder's serivec before 18th April 1973 as an election under regulation 3(1)(*a*) and references in these Regulations to an office-holder having made such an election shall be construed accordingly.

Persons entitled to elect or revoke an election

5.—(1) Regulations 3 and 4 shall apply to an office-holder who was serving before 18th April 1973.

(2) If an office-holder to whom regulations 3 and 4 apply dies on or before 31st December 1974 without having made an election under regulation 3 or without having revoked an earlier election under regulation 4, his widow may, not later than 31st January 1975, exercise any right her husband might have exercised under those regulations.

(e) 1889. c. 63. (f) 1951. c. 20 (N.I.).

Extension of time

6. The responsible authority may, if satisfied in any particular case that it would be reasonable so to do, extend the time for giving any notice under these Regulations.

Contributions

7.—(1) These Regulations shall govern the making of contributions by an office-holder, other than an office-holder who has made an election under regulation 3(1)(*b*), in lieu of subsections (1) to (3) of section 127 of the Act of 1959 or subsections (1) to (5) of section 9 of the Act of 1960.

(2) Accordingly—

(*a*) section 127 of the Act of 1959 shall be modified by the insertion therein, after subsection (3), of the following new subsection:—

"(3A) The foregoing provisions of this section shall not apply in the case of a man continuing to serve after 17th April 1973 unless, in pursuance of regulations made under Schedule 3 to the Administration of Justice Act 1973, he elects that this Act shall apply to him as if that Schedule had not been passed."; and

(*b*) section 9 of the Act of 1960 shall be modified by the insertion therein, after subsection 5, of the following new subsection:—

"(5A) The foregoing provisions of this section shall not apply in the case of a man continuing to serve after 17th April 1973 unless, in pursuance of regulations made under Schedule 3 to the Administration of Justice Act 1973, he elects that this Act shall apply to him as if that Schedule had not been passed.".

(3) Contributions towards the cost of liabilities assumed under the Act of 1959 and the Act of 1960, as modified by Schedule 3 to the Act of 1973, for the benefit of a man's wife and children shall be made in the form of a reduction in his lump sum, or in the form of periodical payments, or partly in the one of those forms and partly in the other.

(4) The Schedule to these Regulations shall have effect for determining—

(*a*) the amounts of any contributions;

(*b*) the conditions subject to which contributions may be made in the form of periodical payments; and

(*c*) the circumstances in, and the conditions subject to, which contributions made in the form of periodical payments may be refunded in whole or in part.

Dated 12th July 1974.

Elwyn-Jones, C.

Concurrence of the Minister for the Civil Service given under his official seal on 17th July 1974.

(L.S.)

K. H. McNeill,
Authorised by the Minister for the Civil Service.

SCHEDULE

Contribution made entirely out of lump sum

1.—(1) This paragraph shall have effect for determining the amount of the contribution (if any) to be made by way of reduction in his lump sum, in the case of an office-holder who has made no periodical payments.

(2) If, for the purpose of his widow's pension, the whole of an office-holder's service is (or, by virtue of an election made under regulation 3(1)(*a*), is treated as being) service after 17th April 1973, the amount of the contribution shall be three quarters of the lump sum.

(3) If, in the case of an office-holder who has not made an election under regulation 3(1)(*a*) or (*b*), a widow's pension is (in accordance with subsections (3) and (5) of section 10 of the Act of 1973) to be regarded as attributable partly to a period of service before 18th April 1973 and partly to a period of service after 17th April 1973, the amount of the contribution shall depend on the proportions those periods bear to the whole period of service to which the widow's pension is attributable and shall be determined by applying the formula—

$$C = L \times \frac{2P+3Q}{4S}, \text{ where}$$

"C" represents the amount of the contribution;

"L" represents the office-holder's lump sum;

"P" represents the number of months of such service before 18th April 1973;

"Q" represents the number of months of such service after 17th April 1973; and

"S" represents the total number of months of such service.

(4) Where an office-holder last had a wife at a time before the end of his relevant service, the amount of the contribution shall, instead of being the amount arrived at by applying sub-paragraph (2) or (if appropriate) sub-paragraph (3) above, be—

(*a*) if either he made an election under regulation 3(1)(*a*) or none of his relevant service was service before 18th April 1973, that amount multiplied by the number of months of his relevant service before the time at which he last had a wife and divided by the total number of months of his relevant service; or

(*b*) in any other case, that amount multiplied by the sum of—

(i) the number of months of his relevant service before the time he last had a wife and before 18th April 1973; and

(ii) one and a half times the number of months (if any) of his relevant service before that time and after 17th April 1973;

and divided by the sum of—

(i) the total number of months of his relevant service before 18th April 1973; and

(ii) one and a half times the total number of months of his relevant service after 17th April 1973.

(5) No contribution by way of reduction in his lump sum shall be made in the case of a man who at no time during his relevant service had a wife.

(6) For the purpose of determining the amount of any contribution payable under this paragraph in the form of a reduction in an office-holder's lump sum, there shall be disregarded any amount by which (in consequence of the operation of section 121(2) of the Act of 1959 or section 3(2) of the Act of 1960) that sum may exceed twice the annual amount of the personal pension.